

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAYTON COTE,

Plaintiff,

v.

U.S. SILICA COMPANY,  
NORFOLK SOUTHERN  
CORPORATION,  
SCHNELL INDUSTRIES, and  
FB INDUSTRIES,

Defendants.

No. 4:18-CV-01440

(Judge Brann)

**ORDER**

**AND NOW**, this 1<sup>st</sup> of November 2018, in accordance with the accompanying Memorandum Opinion, **IT IS HEREBY ORDERED** that:

1. Defendant U.S. Silica Company's Motion for a More Definite Statement, July 23, 2018, ECF No. 28 is **GRANTED**. Plaintiff's amended complaint will be due in accordance with the deadlines set forth in paragraph 2(a) of this Order.
2. Defendant Schnell Industries' Motion to Dismiss, July 23, 2018, ECF No. 29 is **GRANTED in part and DENIED in part**.
  - a. Insofar as the motion is made pursuant to Federal Rule of Civil Procedure 12(b)(2) it is **GRANTED**. Leave is provided for Plaintiff Dayton Cote to engage in jurisdictional discovery with

Defendant Schnell Industries. This jurisdictional discovery shall be completed within sixty (60) days. At the conclusion of the jurisdictional discovery, Plaintiff Cote will be provided an additional two weeks thereafter within which to file an amended complaint stating the basis for personal jurisdiction over Defendant Schnell Industries.

b. Insofar as Schnell Industries' motion is made as a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) it is DENIED without prejudice with leave to re-raise if personal jurisdiction is established.

3. Plaintiff's two discovery dispute letters, ECF Nos. 36 and 37, October 5, 2018, are premature. They will be held for disposition until the time of the initial case management conference between the Court and counsel pursuant to Federal Rule of Civil Procedure 16. That said, I encourage the parties to voluntarily engage in discovery pending said conference to speed the resolution of this matter, to the extent that they are able to do so.

BY THE COURT:

*s/ Matthew W. Brann*  
Matthew W. Brann  
United States District Judge